

CUSTOMS BULLETIN AND DECISIONS

Weekly Compilation of
Decisions, Rulings, Regulations, Notices, and Abstracts
Concerning Customs and Related Matters of the
U.S. Customs Service
U.S. Court of Appeals for the Federal Circuit
and
U.S. Court of International Trade

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This issue contains:

U.S. Customs Service
T.D. 96-77 and 96-78
General Notices

NOTICE

The decisions, rulings, regulations, notices and abstracts which are published in the CUSTOMS BULLETIN are subject to correction for typographical or other printing errors. Users may notify the U.S. Customs Service, Office of Finance, Logistics Division, National Support Services Center, Washington, DC 20229, of any such errors in order that corrections may be made before the bound volumes are published.

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U.S. Customs Service

Treasury Decisions

(T.D. 96-77)

FOREIGN CURRENCIES

DAILY RATES FOR COUNTRIES NOT ON QUARTERLY LIST FOR OCTOBER 1996

The Federal Reserve Bank of New York, pursuant to 31 U.S.C. 5151, has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Holiday: October 14, 1996.

Greece drachma:

October 1, 1996	\$0.004141
October 2, 1996 .....	.004145
October 3, 1996 .....	.004149
October 4, 1996 .....	.004147
October 5, 1996 .....	.004147
October 6, 1996 .....	.004147
October 7, 1996 .....	.004151
October 8, 1996 .....	.004167
October 9, 1996 .....	.004163
October 10, 1996 .....	.004164
October 11, 1996 .....	.004167
October 12, 1996 .....	.004167
October 13, 1996 .....	.004167
October 14, 1996 .....	.004167
October 15, 1996 .....	.004150
October 16, 1996 .....	.004158
October 17, 1996 .....	.004146
October 18, 1996 .....	.004149
October 19, 1996 .....	.004149
October 20, 1996 .....	.004149
October 21, 1996 .....	.004163
October 22, 1996 .....	.004167
October 23, 1996 .....	.004193
October 24, 1996 .....	.004188
October 25, 1996 .....	.004214
October 26, 1996 .....	.004214
October 27, 1996 .....	.004214
October 28, 1996 .....	.004203
October 29, 1996 .....	.004216
October 30, 1996 .....	.004220
October 31, 1996 .....	.004204

FOREIGN CURRENCIES—Daily rates for countries not on quarterly list for October 1996 (continued):

South Korea won:

October 1, 1996	\$0.001218
October 2, 1996 .....	.001217
October 3, 1996 .....	.001217
October 4, 1996 .....	.001212
October 5, 1996 .....	.001212
October 6, 1996 .....	.001212
October 7, 1996 .....	.001208
October 8, 1996 .....	.001206
October 9, 1996 .....	.001206
October 10, 1996 .....	.001199
October 11, 1996 .....	.001206
October 12, 1996 .....	.001206
October 13, 1996 .....	.001206
October 14, 1996 .....	.001206
October 15, 1996 .....	.001206
October 16, 1996 .....	.001207
October 17, 1996 .....	.001210
October 18, 1996 .....	.001209
October 19, 1996 .....	.001209
October 20, 1996 .....	.001209
October 21, 1996 .....	.001206
October 22, 1996 .....	.001208
October 23, 1996 .....	.001209
October 24, 1996 .....	.001208
October 25, 1996 .....	.001206
October 26, 1996 .....	.001206
October 27, 1996 .....	.001206
October 28, 1996 .....	.001200
October 29, 1996 .....	.001198
October 30, 1996 .....	.001200
October 31, 1996 .....	.001207

Taiwan N.T. dollar:

October 1, 1996	\$0.036377
October 2, 1996 .....	.036364
October 3, 1996 .....	.036364
October 4, 1996 .....	.036364
October 5, 1996 .....	.036364
October 6, 1996 .....	.036364
October 7, 1996 .....	.036364
October 8, 1996 .....	.036350
October 9, 1996 .....	.036350
October 10, 1996 .....	.036350
October 11, 1996 .....	.036377
October 12, 1996 .....	.036377
October 13, 1996 .....	.036377
October 14, 1996 .....	.036377
October 15, 1996 .....	.036364
October 16, 1996 .....	.036350
October 17, 1996 .....	.036364
October 18, 1996 .....	.036350
October 19, 1996 .....	.036350
October 20, 1996 .....	.036350
October 21, 1996 .....	.036350
October 22, 1996 .....	.036271
October 23, 1996 .....	.036193

FOREIGN CURRENCIES—Daily rates for countries not on quarterly list for October 1996 (continued):

Taiwan N.T. dollar (continued):

October 24, 1996	\$0.036258
October 25, 1996 .....	.036232
October 26, 1996 .....	.036232
October 27, 1996 .....	.036232
October 28, 1996 .....	.036232
October 29, 1996 .....	.036271
October 30, 1996 .....	.036284
October 31, 1996 .....	.036258

Dated: November 1, 1996.

FRANK CANTONE,
Chief,
Customs Information Exchange.

(T.D. 96-78)

FOREIGN CURRENCIES

VARIANCES FROM QUARTERLY RATES FOR OCTOBER 1996

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to 31 U.S.C. 5151, and reflect variances of 5 per centum or more from the quarterly rates published in Treasury Decision 96-72 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Holiday: October 14, 1996.

Mexico peso:

October 25, 1996	\$0.125628
October 26, 1996 .....	.125628
October 27, 1996 .....	.125628
October 28, 1996 .....	.126422
October 29, 1996 .....	.126263
October 30, 1996 .....	.124844
October 31, 1996 .....	.124301

Dated: November 1, 1996.

FRANK CANTONE,
Chief,
Customs Information Exchange.

U.S. Customs Service

General Notices

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,

Washington, DC, November 5, 1996.

The following documents of the United States Customs Service, Office of Regulations and Rulings, have been determined to be of sufficient interest to the public and U.S. Customs Service field offices to merit publication in the CUSTOMS BULLETIN.

PATRICIA A. TODARO,
(for Stuart P. Seidel, Assistant Commissioner,
Office of Regulations and Rulings.)

PROPOSED MODIFICATION OF RULING LETTER RELATING TO TARIFF CLASSIFICATION OF "PINTLEPIN ASSEMBLIES"

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of proposed modification of tariff classification ruling letter.

SUMMARY: Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that Customs intends to modify a ruling letter pertaining to the tariff classification of pintlepin assemblies. The merchandise consists of lengths of monofilament of nylon, polyester or polyetheretherketone (peek) which are connected by a small piece of brass or stainless steel tubing to a length of stainless steel wire which comes to a point like a needle. The monofilament varies in width from .30 mm to 3.05 mm and is sometimes covered by a textile braid of nomex or nylon. The monofilament varies in length from 3 feet to 40 feet, the stainless steel wire leader may be the same length as the monofilament or it may be shorter. The pintlepins are used to close seams on dryer felts, conveyor belts and other technical use belts used primarily in the paper making industry. The metal leader and tubing is cut off and discarded after leading the monofilament through the seam of the felt belt.

DATE: Comments must be received on or before December 20, 1996.

ADDRESS: Written comments (preferably in triplicate) are to be addressed to U.S. Customs Service, Office of Regulations and Rulings, Attention: Tariff Classification Appeals Division, 1301 Constitution Avenue, N.W. (Franklin Court), Washington D.C. 20229. Comments submitted may be inspected at the Tariff Classification Appeals Division, Office of Regulations and Rulings, located at Franklin Court, 1099 14th Street, N.W., Suite 4000, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Deann Schaffer, Textiles Branch (202) 482-7050.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that Customs intends to modify a ruling pertaining to the tariff classification of pintlepin assemblies. Customs invites comments on the correctness of the proposed modification.

In New York Ruling Letter (NY) 854704, dated August 14, 1990 (set forth as "Attachment A"), pintlepin assemblies were held to be classifiable under heading 5404, HTSUSA, and heading 5808, HTSUSA. Specifically, pintlepin assemblies derived from monofilaments that do not exceed 1 mm in any cross-sectional dimension and are not covered by a braid, were classified, if of nylon, in 5404.10.2020, HTSUSA (5404.10.8020, HTSUSA, in 1996), or, if of polyester, in 5404.20.2040, HTSUSA (5404.10.8040, HTSUSA, in 1996), or, if of peek, in 5404.10.2090, HTSUSA (5404.10.8080, HTSUSA, in 1996). Pintlepin assemblies with a monofilament covered by a textile braid were classified in subheading 5808.10.3010, HTSUSA (5808.10.4000, HTSUSA, in 1996), as braids in the piece, other, of cotton or man-made fibers.

It is now Customs position that the pintlepin assemblies described above are properly classified under subheading 5609.00.30000, HTSUSA, as "articles of yarn, strip or the like of heading 5404 or 5405, twine, cordage, rope or cables, not elsewhere specified or included." Heading 5609, HTSUSA, remains inapplicable to the pintlepin assemblies of nylon, polyester or peek monofilaments which are not covered by a braid and the dimensions of the monofilaments exceed 1 mm in diameter.

Customs intends to modify NY 854704 and rule that the proper classification of pintlepin assemblies, other than the pintlepin assemblies of nylon, polyester or peek monofilaments which are not covered by a braid and the dimensions of the monofilaments exceed 1 mm in diameter, is under subheading 5609.00.30000, HTSUSA. Before taking this action, we will give consideration to any written comments timely

received. Proposed HQ 958760, modifying NY 854704, is set forth a "Attachment B" to this document.

Claims for detrimental reliance under section 177.9, Customs Regulations (19 CFR 177.9), will not be entertained for actions occurring on or after the date of publication of this notice.

Dated: November 4, 1996.

JOHN ELKINS,
(for John Durant, Director,
Tariff Classification Appeals Division.)

[Attachments]

[ATTACHMENT A]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
New York, NY, August 14, 1990.

CLA58:S:N:N3H:351 854704
Category: Classification
Tariff Nos. 5808.10.3010, 5404.10.2020,
5404.10.2040, 5404.10.2090, and 3916.90.3000

MR. R.B. MCKENNY
C.S. EMERY & COMPANY
6 Maple St.
Derby Line, VT 05830

Re: The tariff classification of Pintlepins from Canada.

DEAR MR. MCKENNY:

In your letter dated July 18, 1990, on behalf of Lippert Pintlepin Mfg. Inc., you requested a tariff classification ruling.

You have submitted information concerning a product called Pintlepins. The Pintlepins consist of lengths of monofilament of nylon, polyester or polyetheretherketone (peek) which are connected by a small piece of brass or stainless steel tubing to a length of stainless steel wire which comes to a point like a needle. The monofilament varies in width from .30 mm to 3.05 mm and is sometimes covered by a textile braid of Nomex or nylon. The monofilament varies in length from 3' to 40', the stainless steel wire leader may be the same length as the monofilament or it may be shorter. The Pintlepins are used to close seams on dryer felts and other technical use belts used primarily in the paper making industry. The metal leader and tubing is cut off and discarded after leading the monofilament through the seam of the felt or belt. The monofilament or braid provide the essential character of the Pintlepins.

The applicable subheading for the Pintlepins where the monofilaments is covered by a textile braid will be 5808.10.3010, Harmonized Tariff Schedule of the United States (HTS), which provides for braids in the piece, * * *, other, of cotton; of man-made fibers. The rate of duty will be 8.4 percent *ad valorem*.

The applicable subheadings for the Pintlepins where the monofilaments do not exceed 1 mm in any cross-sectional dimension and are not covered by a braid will be 5404.10.2020, HTS, if of nylon; is 5404.10.2040, HTS, if of polyester; and 5404.10.2090, HTS, if of peek. The applicable article description will be synthetic monofilament of 67 decitex or more and of which no cross-sectional dimension exceeds 1 mm, * * *, monofilament, other. The rate of duty will be 7.9 percent *ad valorem*.

The applicable subheading for the Pintlepins where the nylon, polyester or peek monofilaments are not covered by braid and the dimensions of the monofilaments exceed 1 mm in

diameter will be 3916.90.3000, HTS, which provides for monofilament of which any cross-sectional dimension exceeds 1 mm, ***, of plastics. The rate of duty will be 7.8 percent *ad valorem*.

Goods classifiable under subheading 5808.10.3010, HTS, which have 6.7 percent *ad valorem* originated in the territory of Canada, will be entitled to a United States-Canada Free Trade Agreement (FTA) upon compliance with all applicable regulations.

Goods classifiable under subheadings 5404.10.1020, 5404.10.2040, 5404.10.2090 and 3916.90.3000, HTS, which have originated in the territory of Canada, will be entitled to a 6.2 percent *ad valorem* rate of duty under the United States-Canada, Free Trade Agreement (FTA) upon compliance with all applicable regulations.

This ruling is being issued under the provisions of Section 177 of the Customs Regulations (19 CFR 177).

A copy of this ruling letter should be attached to the entry documents filed at the time this merchandise is imported. If the documents have been filed without a copy, this ruling should be brought to the attention of the Customs officer handling the transaction.

JEAN F. MAGUIRE,
Area Director,
New York Seaport.

[ATTACHMENT B]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
Washington, DC.

CLA-2:CO:R:C:G 958760 DHS
Category: Classification
Tariff No. 5609.30.0000

MR. R. B. MCKENNY
C.S. EMERY & COMPANY
6 Maple St.
Derby Line, VT 05830

Re: Modification of NY 854704; classification of pintlepin assemblies.

DEAR MR. MCKENNY:

This is in reference to a ruling issued to you by our Area Director, New York Seaport, NY 854704, concerning the classification of pintlepin assemblies. That ruling was issued in response to your letter of July 18, 1990, on behalf of Lippert Pintlepin Mfg. Inc. The Area Director, New York Seaport has requested that we review that ruling in accordance with Headquarters Ruling Letter (HQ) 956099, dated March 25, 1994. We have reconsidered this ruling and determined that it is partially incorrect. This ruling is made pursuant to Part 177, Customs Regulations.

Facts:

The following information was contained in NY 854704.

The pintlepin assemblies consist of lengths of monofilament of nylon, polyester or polyetheretherketone (peek) which are connected by a small piece of brass or stainless steel tubing to a length of stainless steel wire which comes to a point like a needle. The monofilament varies in width from .30 mm to 3.05 mm and is sometimes covered by a textile braid of Nomex or nylon. The monofilament varies in length from 3 feet to 40 feet, the stainless steel wire leader may be the same length as the monofilament or it may be shorter. The pintlepin assemblies are used to close seams on dryer felts, conveyor belts and other technical use belts used primarily in the paper making industry. The metal leader and tubing is cut off and discarded after leading the monofilament through the seam of the felt or belt.

Issue:

Whether pintlepin assemblies are classifiable under the provision for articles of yarn, or strip or the like of heading 5404 through 5405, in heading 5609, Harmonized Tariff Schedule of the United States Annotated (HTSUSA), because of Section XI Note 8, HTSUSA.

Law and Analysis:

In NY 854704, the pintlepin assemblies in question were classified under heading 5404 and 5808, specifically:

Pintlepin assemblies derived from monofilaments that do not exceed 1 mm in any cross-sectional dimension and are not covered by a braid—of nylon—5404.10.2020, HTSUSA, (5404.10.8020, 1996 schedule) of polyester—5404.10.2040, HTSUSA (5404.10.8040, 1996 schedule) of peek—5404.10.2090, HTSUSA (5404.10.8080, 1996 schedule).

The applicable article description will be synthetic monofilament of 67 decitex or more and of which no cross-section dimension exceeds 1 mm, * * *, monofilament, other.

Pintlepins assemblies derived from monofilament covered by a textile braid—5808.10.3010 HTSUSA (5808.10.4000, 1996 schedule).

This subheading provides for braids in the piece, other, of cotton; of man-made fibers.

In HQ 956099, dated March 25, 1994, we held that the pintlepin assemblies are properly classifiable in heading 5609 HTSUSA (specifically subheading 5609.00.30000, HTSUSA, of man-made fibers) as "articles of yarn, strip or the like of heading 5404 or 5405, twine, cordage, rope or cables, not elsewhere specified or included." HQ 956099 concluded that the monofilament imparts the essential character to the pintlepins and determines their classification. The wire and tubing are cut off and discarded after leading the monofilament through the seam of the felt or belt; therefore, merely facilitating the installation of the monofilament.

The analysis applied to the pintlepin assemblies in HQ 956099 is equally applicable to the articles under consideration, since the description of the pintlepin assemblies in question is identical to those in HQ 956099, with the exception of the physical dimensions and the addition of the braided monofilament.

Merchandise is classifiable under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) in accordance with the General Rules of Interpretation (GRI's). GRI 1 states in part that for legal purposes, classification shall be determined according to the terms of the headings and any relative section or chapter notes. GRI 1 does not apply to this case because the pintlepin assemblies consist of more than one material and therefore, are more accurately governed by another GRI.

GRI 2(a) is not applicable in this situation. GRI 2(b) provides that a reference to a material in a heading shall be taken to include mixtures or combinations of that material with other materials and that any reference to goods of a given material shall be taken to include goods partly of that material; if goods consist of more than one material, then classification will be according to GRI 3.

Pursuant to GRI 2(b), the classification of the pintlepin assemblies are determined by GRI 3, since the pintlepin assemblies are made from three different materials and there is no *ex nomine* provision which specifically provides for pintlepin assemblies.

GRI 3(a) is inapplicable because two or more headings each refer to part only of the pintlepin assemblies. Subheading 7326.20, HTSUSA, provides for other articles of steel wire and subheading 5609.00 provides for articles of yarn or strip of heading 5404. We therefore, apply GRI 3(b), HTSUSA, which states, in relevant part, that composite goods consisting of different materials or made up of different components, shall be classified as if consisting of the material or component which gives them their essential character. The textile, the monofilament of nylon, polyester or polyetheretherketone, provides the essential character of the pintlepin assemblies. The brass or stainless steel tubing and the stainless steel wire are merely conduits to apply the monofilament.

Section XI, Note 7, HTSUSA, provides that the expression "made up" means, among other things, "assembled by sewing, gumming or otherwise." This definition was applied in HQ 956099 to conclude that pintlepin assemblies which consist of three components combined into a single unit are "made up."

Section XI, Note 8, HTSUSA, states, "Chapters 50-55 * * * do not apply to goods made up within the meaning of note 7 above." Accordingly, pintlepin assemblies cannot be classified under a subheading in chapter 54.

In accordance with the above analysis, the pintlepin assemblies in question are properly classified under heading 5609, HTSUSA, in subheading 5609.00.3000, HTSUSA, as "articles of yarn, strip or the like of heading 5404 or 5405, twine, cordage, rope or cables, not elsewhere specified or included."

Heading 5609, HTSUSA, remains inapplicable to the pintlepin assemblies of nylon, polyester or peek monofilaments which are not covered by a braid and the dimensions of the monofilaments exceed 1 mm in diameter since Section XI, Note 1(g) specifically precludes them from this section because their dimensions exceed 1 mm.

Holding:

Under the authority of GRI 3(b), the pintlepin assemblies are provided for in heading 5609 and classified in subheading 5609.00.30000, HTSUSA. NY 854704, dated August 14, 1990, is modified.

JOHN DURANT,
Director,
Tariff Classification Appeals Division.

**PROPOSED REVOCATION OF RULING LETTER RELATING TO
TARIFF CLASSIFICATION OF WOMEN'S REVERSIBLE
GARMENT**

AGENCY: U.S. Customs Service, Department of Treasury.

ACTION: Notice of proposed revocation of tariff classification ruling letter.

SUMMARY: Pursuant to section 625(c)(1) of the Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that Customs intends to revoke a ruling pertaining to the tariff classification of a women's reversible garment.

DATE: Comments must be received on or before December 20, 1996.

ADDRESS: Written comments preferably in triplicate) are to be addressed to U.S. Customs Service, Office of Regulations and Rulings, Attention, Tariff Classification Appeals Division, 1301 Constitution Avenue, NW (Franklin Court), Washington, D.C. 20229. Comments submitted may be inspected at the Tariff Classification Appeals Division, Office of Regulations and Rulings, located at Franklin Court, 1099 14th Street, NW, Suite 4000, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Rebecca A. Hollaway, Tariff Classification Appeals Division (202) 482-6996.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Pursuant to section 625(c)(1) of the Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested par-

ties that Customs intends to revoke a ruling letter pertaining to the tariff classification of a women's reversible garment.

In District Decision PD 818415, dated February 2, 1996, Customs classified a women's jacket under the tariff provision providing for men's or boys' anoraks (including ski-jackets), windbreakers, or similar garments. PD 818415 is set forth as "Attachment A" to this document. It is Customs position that the jacket is classifiable as a women's anorak (including ski-jackets), windbreaker or similar garment under subheading 6202.93.5011, HTSUSA. If the garment passes the water resistance test of Additional U.S. Note 2 to Chapter 62, it is classifiable under subheading 6202.93.4500, HTSUSA. Before taking this action, we will give consideration to any written comments timely received. Proposed HQ 959129 revoking PD 818415 is set forth as "Attachment B" to this document.

Claim for detrimental reliance under section 177.9, Customs Regulations (19 CFR 177.0), will not be entertained for actions occurring on or after the date of publication of this notice.

Dated: November 4, 1996.

JOHN ELKINS,
(for John Durant, Director,
Tariff Classification Appeals Division.)

[Attachments]

[ATTACHMENT A]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
Charleston, SC, February 2, 1996.
CLA-2-62:DD:C:T21 PD818415
Category: Classification
Tariff No. 6201.93.3000 and 6210.93.3511

MR. JOHNNY LEE
BJ CUSTOMS BROKERAGE CO. INC.
P.O. Box 91034
Los Angeles, CA 90009-1034

Re: The tariff classification of a man's jacket from China.

DEAR MR. LEE:

In your letter dated January 16, 1996, you requested a classification ruling on behalf of Marshall Gobuty Intl Inc.

The submitted sample, style 1763, is a man's reversible jacket. One side is made of 100% cotton woven denim and the other side is 100% nylon woven fabric which has been coated with polyurethane. The jacket has a denim collar, a full frontal opening with six button closure, long sleeves with buttoned cuffs and a waistband with adjustable, buttoned tabs on each side. The denim side features jeans styling with double needle stitching, two chest pockets with buttoned flaps, two slash pockets at the waist and an embroidered logo "The Original ARIZONA Jean Company" in the middle back panel. The nylon side is quilted and has two slash pockets at the waist. The sleeves and pocket edges are of contrasting color

fabric to the body of the jacket. The left chest features a smaller version of the embroidered logo.

The sample will be returned as requested.

If the jacket passes the water resistant test, the applicable subheading will be 6201.93.3000, Harmonized Tariff Schedule of the United States (HTS), which provides for men's or boys anoraks (including ski-jackets), wind-breakers and similar articles (including padded, sleeveless jackets: of man-made fibers: other: water resistant. The duty rate will be 7.5 percent *ad valorem*. If the jacket does not pass the water resistance test, the applicable subheading will be 6201.93.3511, HTS, which provides for men's or boy's anoraks * * * of man-made fibers: other: other: men's. The duty rate will be 29.1 percent *ad valorem*.

The jacket falls within textile category designation 634. As a product of China, this merchandise is subject to visa requirements and quota restraints based upon international textile trade agreements.

The designated textile and apparel category may be subdivided into parts. If so, visa and quota requirements applicable to the subject merchandise may be affected. Since part categories are the result of international bilateral agreements which are subject to frequent renegotiations and changes, we suggest that you check, close to the time of shipment, the *Status Report On Current Import Quota (Restraint Levels)*, an internal issuance of the U.S. Customs Service which is available for inspection at your local Customs office.

This ruling is being issued under the provisions of Section 177 of the Customs Regulations (19 C.F.R. 177).

A copy of this ruling letter should be attached to the entry documents filed at the time this merchandise is imported. If the documents have been filed without a copy, this ruling should be brought to the attention of the Customs officer handling the transaction.

E. JULIAN MILLER,
Port Director.

[ATTACHMENT B]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,

Washington, DC.

CLA-2 RR:TC:TE 959129 RH
Category: Classification
Tariff No. 6202.93.4500

MR. JOHNNY LEE
BJ CUSTOMS BROKERAGE CO., INC.
P.O. Box 91034
Los Angeles, CA 90009-1034

Re: Revocation of District Decision PD 818415; classification of a reversible jacket; men's or women's; Note 8, Chapter 62; Subheading 6202.93.

DEAR MR. LEE:

On February 2, 1996, Customs issued ruling letter PD 818415 (copy enclosed) regarding the classification of a reversible jacket, which your client, Marshall Gobuty International, Inc., intended to import from China. In that ruling, the jacket was classified as a men's or boys' anorak (including ski-jackets), windbreaker or similar article under subheading 6201.93.3000, Harmonized Tariff Schedule of the United States Annotated (HTSUSA). If the garment passed the water resistance test of Additional U.S. Note 2 to Chapter 62, it was classified under subheading 6201.93.3511, HTSUSA. At the request of our New York office, we reviewed PD 818415 and determined that the jacket should have been classified as a women's or girls' garment. This ruling, therefore, revokes PD 818415 and classifies the garment under either subheading 6203.93.45 00 or subheading 6203.93.5011, depending on whether it is water resistant.

Facts:

The merchandise in question is a reversible jacket, style number 1763. One side is made of 100 percent cotton woven denim and the other side is 100 percent nylon woven fabric

which has been coated with polyurethane. The jacket has a denim collar, a full frontal opening with a six-button closure, long sleeves with buttoned cuffs and a waistband with adjustable, buttoned tabs on each side. The denim side features double needle stitching along the seams, two chest pockets with buttoned flaps, two slash pockets at the waist and an embroidered logo ("The Original ARIZONA Jean Company") in the middle of the back panel. The nylon side is quilted and has two slash pockets at the waist. The collar is constructed of cotton denim fabric. The left chest features a smaller version of the embroidered logo.

Issue:

Is the jacket classifiable as a men's or women's anorak (including ski jackets), windbreaker or similar garment in Chapter 62?

Law and Analysis:

Classification of goods under the HTSUSA is governed by the General Rules of Interpretation (GRI). GRI 1 provides that classification shall be determined according to the terms of the headings and any relative section or chapter notes, taken in their appropriate order. Heading 6201 provides for men's or boys' overcoats, carcoats capes, cloaks, anoraks, (including ski-jackets), windbreakers and similar articles. Heading 6202 provides for the same articles for women or girls.

The Harmonized Commodity Description and Coding System Explanatory Notes (EN), while not legally binding, are recognized as the official interpretation of the Harmonized System at the international level. EN 8 to Chapter 62, pertains to classification of garments by gender. It states,

Garments of this chapter designed for left over right closure at the front shall be regarded as men's or boys' garments, and those designed for right over left closure at the front as women's or girls' garments. These provisions do not apply where the cut of the garment clearly indicates that it is designed for one or other of the sexes.

Garments which cannot be identified as either men's or boys' garments or as women's or girls' garments are to be classified in the headings covering women's or girls' garments.

In this case, the nylon side of the reversible jacket is designed for right over left closure, which would make it a women's or girls' garment. On the other hand, the cotton denim side closes left over right, which indicates it is a men's or boys' garment. Both sides of the jacket are fashionable and suitable for wear on the outside. In this case, it is the personal preference of the wearer that will determine which side of the garment is worn on the outside and, thus, which way it closes. Moreover, the cut and style of the garment does not clearly indicate that it is designed for a certain gender; this particular garment is commonly worn by both sexes. Since, the gender of the garment cannot be identified, it will be classified in heading 6202 which covers women's or girls' anoraks (including ski-jackets), windbreakers and similar articles, in accordance with EN 6, Chapter 62.

Next, we refer to the subheadings of heading 6202, which classify garments according to their fabric construction. Subheading 6202.92 provides for anoraks (including ski-jackets), windbreakers and similar articles of cotton, and subheading 6202.93 which provides for such garments of man-made fibers (i.e. nylon). Since there are two competing subheadings, the garment cannot be classified solely on the basis on GRI 1. Therefore, we must refer to the remaining GRI, in their appropriate order.

GRI 2(a) is not applicable in this case as it refers to incomplete or unfinished articles. GRI 2(b) directs that the classification of goods consisting of more than one material (i.e., cotton and nylon fabrics in this case) shall be according to the principles of rule 3. That rule applies to goods that are *prima facie* classifiable under two or more headings or subheadings (6202.92 and 6202.93 in this case).

GRI 3(a) states that where two or more headings each refer to part only of an article, classification is determined using a GRI 3(b) analysis. In this case, subheading 6202.92 refers only to the cotton denim side of the garment and subheading 6202.93 refers only to the nylon side. Thus, GRI 3(b) is applicable. It states that the material or component which imparts the essential character to an article will determine classification. In this case, both sides of the reversible garment are equally suitable for wear as the outer shell, as discussed above. Neither the cotton side nor nylon side imparts the essential character to the garment.

As none of the constituent materials impart the essential character to the garment. Customs must look to the next applicable GRI for classification of the article. GRI 3(c) provides that when goods cannot be classified by reference to GRI 3(a) or 3(b), they shall be classified

under the heading which occurs last in numerical order among those which equally merit consideration. Between the competing subheadings in this case, 6202.92 and 6202.93, it is the latter which controls classification.

Holding:

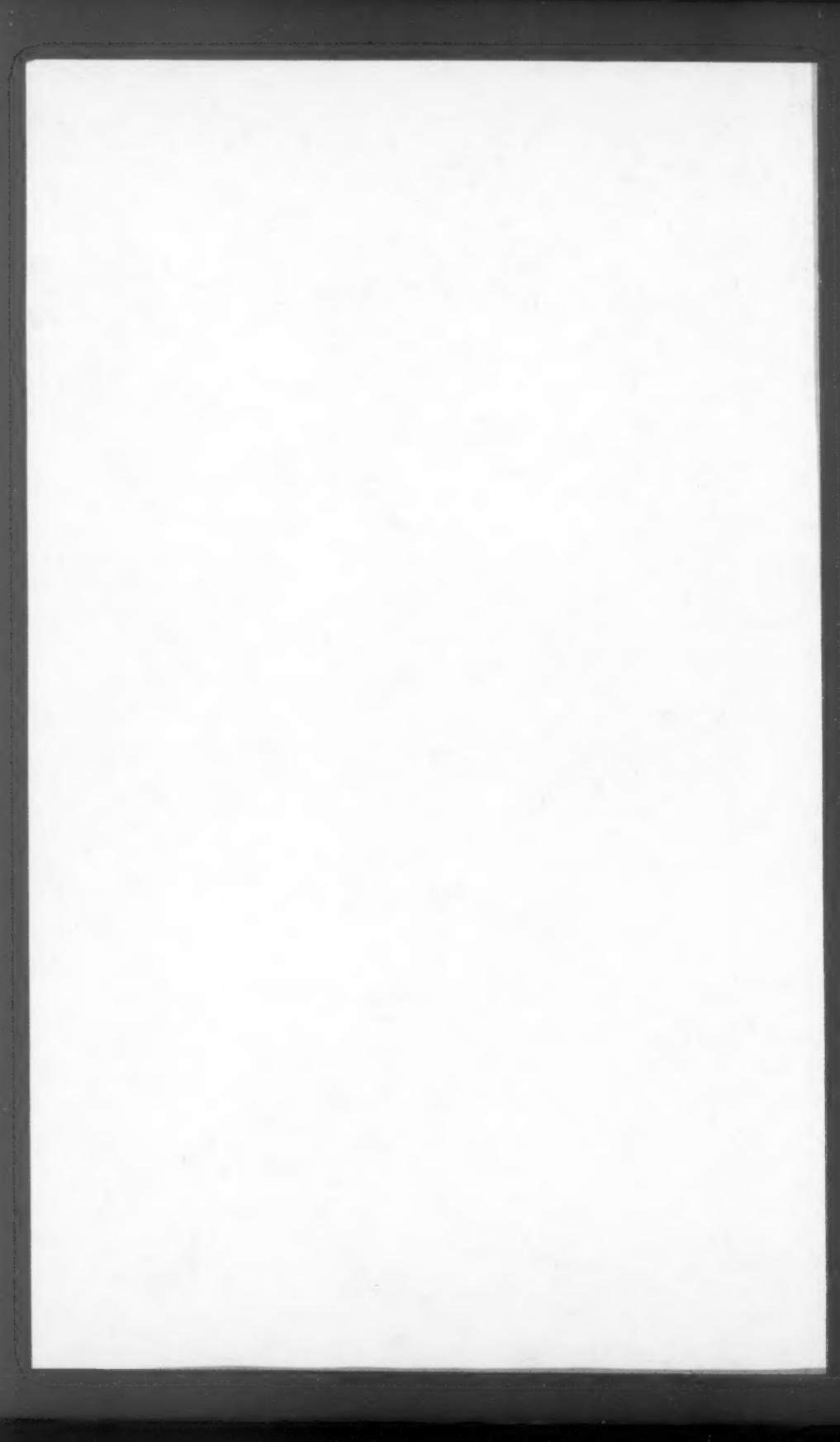
Provided the reversible jacket, style 1763, satisfies the requirements for water resistance in accordance with Additional U.S. Note 2, Chapter 62, HTSUSA, the applicable subheading is 6203.93.4500, which provides for "Women's or girls' overcoats, carcoats, capes, cloaks, anoraks (including ski-jackets), windbreakers and similar articles (including padded, sleeveless jackets), other than those of heading 6204: of man-made fibers: Other: Other: Water resistant. They are dutiable at the general rate of 7.5 percent *ad valorem*. If they do not satisfy the requirements for water resistance, they are classified under subheading 6202.93.5011, dutiable at the general rate of 29.1 percent *ad valorem*. In either case, the textile Category is 635.

JOHN DURANT,
Director,
Tariff Classification Appeals Division.









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